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JUN 29 2004

In re Patent of :
Pelrine et al. :
Application No. 10/047,485 : DECISION
Filed: October 26, 2001 : ON PETITION
Title of Invention: :
ELASTOMERIC DIELECTRIC POLYMER :
FILM SONIC ACTUATOR :
: OFFICE OF PETITIONS

This is a decision on the Petition to Withdraw Holding of Abandonment Based on Failure to Receive Final Rejection, filed June 3, 2004. The petition is properly treated under 37 CFR §1.181(a).

The petition is dismissed.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed October 20, 2003. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on January 21, 2004. A Notice of Abandonment was mailed on May 18, 2004.

Applicant requests that the holding of abandonment in this application be withdrawn because Applicant did not receive the final rejection. In support of this request, applicant provides that this application was transferred to his Office on or about May 17, 2003. Applicant further provides that a power of attorney (changing the correspondence) was filed with this

Office nearly 11 months later, on April 14, 2004. In the interim, on October 20, 2003, Applicant notes that this Office mailed the final Office action. Applicant says that, "however, the Office Action was mailed to the [prior law firm], where no further action was taken." Applicant subsequently contacted this Office and was sent a copy of the Office action via facsimile on April 21, 2004. Applicant next attests to the fact that a search of the file jacket and docket records indicate that no final Office action was received prior to the six month period for reply.

A review of Office records indicate that the final Office action was properly mailed to the correspondence address of record. Absent any irregularities in the mail, correspondence is presumed to have been delivered to the correspondence address of record. A review of the file reveals no irregularity in the mailing. Further, Applicant admits that he failed to correct the correspondence address until nearly 11 months after the instant application was transferred to his Office. In the interim, applicant further admits that this Office mailed the final Office action to the correspondence address of record. Finally, and after Applicant admits that the final Office action was mailed to the prior law firm AFTER the file was transferred to him, Applicant avers that he has searched HIS file jacket and docket records which indicate that no final Office action was received.

The petition is dismissed.

The application file is being forwarded to Technology Center Art Unit 2643 for review of Amendment B, filed June 3, 2004, for a determination of whether the Amendment places the application in condition for allowance, before consideration of the petition under 37 CFR 1.137(b) may be considered.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
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PO Box 1450
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By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
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Telephone inquiries concerning this matter should be directed to
the undersigned at (703) 305-0014.



Derek L. Woods
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Office of Petitions